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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/397,618	09/16/1999	ALAN JOHN BRASIER	MUR-V08467	8977

7590

06/23/2003

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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

1771

21

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/397,618

Applicant(s)

BRASIER, ALAN JOHN

Examiner

Christopher C Pratt

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-31 and 38-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-31 and 38-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 4/28/03 have been entered and carefully considered. Applicant's amendment is not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Drawings***

2. Figures 1 and 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 26-31 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meeks (5830092) in view of Zocher (3340586), as set forth in the previous action, ~~Fehrer (5813101 and 5752301), GB 2306510A, GB 2310221A, or GB 2315281A.~~ 6.16.03

Applicant acknowledges that Zocher teaches non-perpendicular fibers, but argues that these fibers do not pass “through” the batt. It is the examiner’s position that the process of Zocher results in fibers extending through the thickness of the batt in a range of angles. Zocher specifically teaches that the fibers are oriented in “diverse directions (col. 2, lines 30-31)” and provides figures illustrating fibers extending at various angles (figs. 8-9). The examiner also notes that Zocher teaches a similar process as the process used by applicant, wherein straight needles are passed through a nonwoven web disposed on a curved needle board (fig. 2.).

Applicant argues that the two surfaces of Zocher’s batt are different and this results in poor end-product characteristics. First, the examiner notes that applicant’s argument is not commensurate in scope with the claims because surface characteristics and final properties are not claimed. Second, it is the examiner’s position that the two sides are not substantially different from each other. Zocher teaches identical needling processes on both sides of the web (fig. 2) and teaches that both sides are compacted (col. 6, line 39). Third, it is the examiner’s position that the two sides created by the process of Zocher are equivalent to the sides of applicant’s batt because Zocher teaches the same process utilized in the instant invention.

Applicant argues that the combination of Meeks and Zocher fails to teach the limitations of claims 30-31. Applicant’s arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. These claims were previously rejected over

said combination and applicant has not pointed out reasons for supposed errors in the rejection.

Applicant argues that the previously submitted declaration is more than mere opinion because it is conducted by professional tennis players under actual playing conditions. Nevertheless, the declaration is still an opinion. The Patent Office is not qualified to evaluate opinions, but rather is charged with evaluating measured results and calculations.

Even if applicant's declaration were given weight it would not amount to unexpected results. Zocher teaches the needling process to result in a stronger, more cohesive webb with more compacted surfaces. Resulting characteristics such as increased wear resistance and increased speed would be expected from Zocher's improved webb.

5. Claims 26-31 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meeks (5830092) in view of Fehrer (5813101 and 5752301), GB 2306519A, GB 2310221A, or GB 2315281A.

As set forth above and in previous actions, Meeks teaches applicant's invention but fails to teach applicant's needling process.

Fehrer, GB 2306519A, GB 2310221A, and GB 2315281A all teach applicant's claimed needling process. It would have been obvious to a person having ordinary skill in the art to needle the web of Meeks according the process taught by Fehrer, GB 2306519A, GB 2310221A, and GB 2315281A. Such a modification of Meeks would

have been motivated by the desire to increase the strength and cohesiveness of Meeks nonwoven web.


**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt  
June 16, 2003

  
CHERYL A. JUSKA  
PRIMARY EXAMINER